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C O N F I D E N T I A L SECTION 01 OF 03 BAGHDAD 004997

SIPDIS

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SUBJECT: THE DE-BAATHIFICATION PROCESS

Classified By: Political Counselor Robert S. Ford for Reasons 1.4 (b) and (d).

1. (C) The De-Baathification Commission has become something of an election issue with Ayed Allawi publicly criticizing it and Shia Islamists in turn strongly supporting it. Behind the scenes, Shia Islamist political figures are driving the commission as other commission board members show little interest in its work. (The Kurds have no board member now and there are no De-Baath offices in the Kurdish Regional Government.) The Shia engine leads their political opponents to claim the commission's work is highly politicized. After an individual is identified as a member of the former Baath party, and thus subject to the measures in the De-Baath law, he may appeal or file for an exception. Very few win their appeals. Exceptions are much easier to obtain; a source on the De-Baath Commission told us that there were 17,500 exceptions granted in 2005. Shia Islamist support for the De-Baath commission, and criticism from people like Ayed Allawi and Sunni Arab political leader Salih Mutlak suggest that the National Assembly's De-Baath review laid out in the new constitution could be contentious.

2. (U) On December 6, General Secretary of the National De-Baathification Commission (NDC) Tahlib al-Muhanna briefed PolOff on the commission structure and de-Baathification process. End Summary.

Commission Structure

3. (C) Since its inception in 2003, the NDC Chairman has been Deputy Prime Minister Ahmed Chalabi. The NDC Board of Directors consists of eight representatives from various political parties. The Board is responsible for the political leadership of the commission and provides guidance on policy and procedure. Al-Muhanna commented that with the exception of DAWA's Jawad al-Maliki and SCIRI's Jalal al-Din al-Sagheer, the NDC board members have not played an active or influential role. The NDC Board is comprised of 8 members from the following political parties:

Kurdistan Democratic Party - vacant
DAWA; TNA Jawad al-Maliki
SCIRI; TNA Shaikh Jalal al-Din al-Sagheer
Iraqi National Congress; DPM Ahmed Chalabi
Iraqi Communist Party; TNA Hamid Moussa
Assyrian Democratic Movement; TNA Yonadam Kanna
United Islamist Alliance; TNA Dr. Sallama al-Khafaji
Iraqi National Accord; TNA Dr. Raja Hameed al-Khuzai

4. (U) NDC consists of seven (7) directorates. The Oversight Directorate reports directly to the Board of Directors and oversees the activities of the six other directorates which are:

- General Secretariat
- Information Gathering & Investigations
- Legal Affairs
- Culture & Education Affairs
- Economic Affairs
- General Follow-up and Implementation

Information Gathering & Investigative Directorate

5. (U) The Information Gathering & Investigative Directorate is responsible for tracking high-ranking former Ba'athists and their assets. This directorate also receives information from its branch offices located in each of the 15 governorates, determines what information is actionable, and maintains the hard copy archives before forwarding the information to the Legal Directorate. (NOTE: there are no NDC branches in the KRG. END NOTE) The Information Gathering & Investigative Directorate liaises with the de-Ba'athification section of each of the 25 federal ministries, as well as the ministries' de-Baathification in each of the 15 governorates. (read this Directorate deals with as many as 375 ministerial

de-Baathification offices)

Identification of a Baathist

14. (U) Identification of former Ba'athists requires a 10-step process.

- a. An NDC governorate branch office receives information about an individual from various sources.
- b. The NDC branch office conducts a local investigation in conjunction with the relevant Ministry's local de-Ba'athification section.
- c. The NDC branch office submits the information to the Baghdad Information Gathering & Investigations Directorate.
- d. The Baghdad Directorate conducts its own investigation.
- e. Once the information is verified, the Directorate forwards the case to the relevant Ministry.
- f. The Ministry re-verifies the evidence with its local de-Baathification section.
- g. Once the information is re-verified, the Ministry returns the case back to the Baghdad Directorate with its comments.
- h. The Baghdad Directorate forwards the case to the Legal Directorate, which examines the evidence once more.
- i. If everything is in order, a NDC judge signs the formal de-Baathification notification order.
- j. The order is forwarded to the Ministry, which notifies the individual by letter.

Vetting of Political Candidate Lists

16. (U) Contrary to the above Ba'athist identification process, the NDC Information Gathering & Investigative Directorate vets political candidate lists by comparing the names with its existing database. The database includes names of all individuals in the NDC investigation pipeline. (This process is similar to our consular name check.)

Appeals vice Exceptions

17. (C) The NDC receives thousands of applications for Appeals and Exceptions annually. To qualify for an appeal an individual must be able to provide documentary evidence that discounts case evidence. Al-Muhanna stated that it is a rare occasion when an appeal succeeds. He claimed that only 4-5 appeals have succeeded this year.

18. (U) To qualify for an Exception, an individual must have been a Level 4 Ba'ath Party Group (Udw Firqah) member or below, admit to Ba'ath party membership, and be innocent of criminal activities. To file for an Exception an individual must submit the following to its local NDC branch office:

- a complete curriculum vitae
- denunciation of the Ba'ath Party
- testimony from the workplace
- testimony from friends, neighbors, relatives
- surrender any and all weapons

19. (U) The NDC branch office reviews the above information and submits it to the NDC Legal Directorate in Baghdad. If the information is in order, the Legal Directorate grants an Exception. An Exception allows a Level 4 Group Party Member to return to his/her place of work demoted to a lower position and to receive a pension. An Exception has a one-year probationary period during which the individual's activities are monitored. According to al-Muhanna, exceptions are rarely denied. To the best of his knowledge, 17,500 exceptions have been granted this year. The exception process is reported to take 4-5 months.

10. (C) Comment. Although the NDC General Secretary has provided clear guidelines for the de-Baathification process orally, there is evidence that exceptions have not been executed within the customary time frame and appeals are very hard to win. It is very much our sense that the Shia Islamists are driving the de-Baath process. The Kurds have absented themselves from the commission's work, and we never hear contacts like Yonnadam Kanna or Raja al-Khuzai discuss de-Baath issues with us. This Shia engine in turn leads their political opponents to claim the commission's work is highly politicized. Stories of

corruption in the process, and the somewhat Kafkaesque manner in which the de-Baath bureaucracy churns forward have raised many complaints too. Ayed Allawi has called for an end to the commission's work, and in a sense the commission has become an election issue. End Comment. Shia Islamist support for the De-Baath Commission, and criticism from people like Ayed Allawi and Sunni Arab political leader Salih Mutlak suggest that the National Assembly's De-Baath review laid out in the new constitution could be contentious.

KHALILZAD